

**STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
BUREAU OF REGULATORY SERVICES**

In re: Kalonji Diyoka

Petition No. 2001-0410-042-003

**CONSENT ORDER**

WHEREAS, Kalonji Diyoka of Norwalk, Connecticut (hereinafter "respondent") has been issued license number 000078 to practice as an asbestos consultant - project monitor by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 400a of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. In or about July 2000, respondent was the licensed asbestos consultant – project monitor for an asbestos abatement project at an industrial complex at 718 Old North Colony Road, Wallingford, CT (hereinafter “the property”). The asbestos abatement project involved the removal of approximately 15,000 linear feet of asbestos containing pipe insulation, 3,100 square feet of thermal system insulation, 250 square feet of asbestos containing floor tile, and 4,000 square feet of asbestos containing roofing material from various buildings on the property.
2. Respondent was hired to perform a final visual inspection and to conduct post abatement reoccupancy air sampling in each work area.
3. On or about July 11, 2000, respondent failed to ensure that the abatement project was properly completed by the asbestos contractor in that:

- a. he failed to ensure that there was no visible residue in one of the work areas before collecting post abatement air samples. A Department investigator observed visible residue remaining on some pipes in this work area, as well as on floor surfaces in the immediate vicinity of these pipes. Samples of debris were subsequently analyzed and determined to contain asbestos; and
  - b. he failed to ensure that there was no visible residue in a boiler room work area that was scheduled for demolition. A Department investigator observed visible residue remaining on piping systems, as well as on floor and wall surfaces in the immediate vicinity of these piping systems. Samples of debris were subsequently analyzed and determined to contain asbestos.
4. The above described facts constitute grounds for disciplinary action pursuant to Chapter 400a and §§19a-332 and 19a-332a of the General Statutes of Connecticut, taken in conjunction with §§19a-332a-1, 19a-332a-2, 19a-332a-5(g), 19a-332a-12(b), 20-440-1, 20-440-3(a), 20-440-3(b)(4) and/or 20-440-6 of the Regulations of Connecticut State Agencies.

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest the above allegations of wrongdoing but, while admitting no guilt or wrongdoing, agrees that for purposes of this or any future proceedings before the Department, this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-10, 19a-14 and Chapter 400a of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14, 19a-17 and Chapter 400a of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives his right to a hearing on the merits of this matter.
2. Respondent shall pay a civil penalty of seven hundred and fifty dollars (\$750.00) by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall

reference the Petition Number on the face of the check, and shall be payable at the time respondent submits the executed Consent Order to the Department.

3. Respondent's license shall be placed on probation for a period of sixty (60) days under the following terms and conditions:
  - a. Respondent shall provide his employer with a copy of this Consent Order within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of employment with a new employer.
  - b. Respondent's employer shall furnish written confirmation to the Department of receipt of a copy of this Consent Order within fifteen days of receipt.
  - c. During the period of probation, respondent shall cause its employer to furnish the Department on a weekly basis, by no later than 12:00 p.m. on each Friday, a work schedule for respondent for the following week. Such schedule shall indicate the date and address for each project where respondent will be providing asbestos consultation services as a project monitor during such week, and to the extent known, the time of day respondent will be providing such services. Respondent shall notify the Department, by facsimile, on a daily basis, by no later than 10:00 a.m. each day, of any known changes to his work schedule for that particular day. The Department understands that the nature of respondent's work is such that he generally receives very short notice (e.g., 30 minutes) of projects for which he is to perform asbestos consultation services. Therefore, respondent shall give the Department immediate notice by telephone, to the attention of Ronald Skomro, Supervising Environmental Sanitarian, (860) 509-7367, of any project for which respondent is expected to provide asbestos consultation services the same day and for which respondent has not previously notified the Department in accordance with the procedures described above. For the purpose of this paragraph 3c, "asbestos

consultation services” shall have the meaning given in Section 20-440-1(10) of the Regulations of Connecticut State Agencies and “project monitor” shall have the meaning given in Section 20-440-1(29) of the Regulations of Connecticut State Agencies.

- d. Respondent shall send each report required by paragraph 3c above, including, without limitation, any daily revisions to respondent’s work schedule, to the Department by facsimile (860-509-7378), to the attention of Ronald Skomro, Supervising Environmental Sanitarian.
4. All correspondence is to be addressed to:

Ronald Skomro, Supervising Environmental Sanitarian  
Department of Public Health  
410 Capitol Avenue, MS #51AIR  
P.O. Box 340308  
Hartford, CT 06134-0308
5. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
6. Respondent shall pay all costs necessary to comply with this Consent Order.
7. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:
  - a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.
  - b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.
  - c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 7a above to demonstrate to the satisfaction of the

Department that he has complied with the terms of this Consent Order or, in the alternative, that he has cured the violation in question.

- d. If respondent does not demonstrate compliance or cure the violation by the limited fifteen (15) day date certain contained in the notification of violation to the satisfaction of the Department, he shall be entitled to a hearing before the Department which shall make a final determination of the disciplinary action to be taken.
  - e. Evidence presented to the Department by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.
8. In the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from practicing as an asbestos consultant – project monitor, upon request by the Department, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that his failure to cooperate with the Department's investigation shall constitute an admission that his conduct constitutes a clear and immediate danger as required pursuant to the General Statutes of Connecticut, sections 4-182(c) and 19a-17(c).
9. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Department.
10. In the event respondent is not employed as an asbestos consultant – project monitor for periods of thirty (30) consecutive days or longer, or is employed as an asbestos consultant

- project monitor for less than ten (10) hours per week, or is employed outside of the State of Connecticut, respondent shall notify the Department in writing. Such periods of time shall not be counted in reducing the probationary period covered by this Consent Order.
11. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department.
  12. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted by the Department.
  13. Respondent agrees that this Consent Order shall be deemed a public document, and the Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Department in which his compliance with this Consent Order or with Chapters 400a or 3681 of the General Statutes of Connecticut, as amended, is at issue.
  14. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
  15. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.
  16. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.

17. Respondent permits a representative of the Legal Office of the Bureau of Regulatory Services to present this Consent Order and the factual basis for this Consent Order to the Department. Respondent understands that the Department has complete and final discretion as to whether this executed Consent Order is approved or accepted.
18. Respondent has the right to consult with an attorney prior to signing this document.

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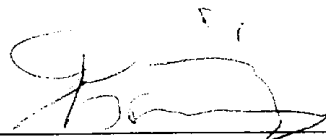
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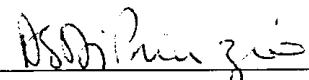
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I, Kalonji Diyoka, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

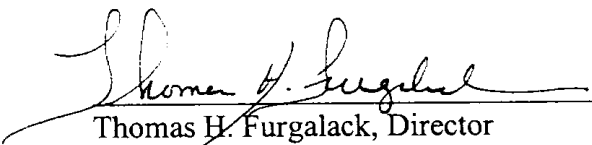
  
\_\_\_\_\_  
Kalonji Diyoka

Subscribed and sworn to before me this 13<sup>th</sup> day of September 2001.

**A.S. DiPRINZIO**  
**NOTARY PUBLIC**  
**MY COMMISSION EXPIRES 01/31/2006**

  
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Notary Public or person authorized  
by law to administer an oath or affirmation

The above Consent Order having been presented to the duly appointed agent of the  
Commissioner of the Department of Public Health on the 17<sup>th</sup> day of  
September 2001, it is hereby accepted.

  
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Thomas H. Furgalack, Director  
Division of Environmental Health

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